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EASTERN DISTRICT OF CALIFORNIA
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Plaintiff, Pro se

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

MIGUEL MARQUEZ VALDIVIA,

Plaintiff,

vs.

COUNTY OF SACRAMENTO,
GRANT NUGENT, GARY LEEDS
and DOES 1-10,

Defendants.

Case No.: 2:22-cv-1643-KJM-DB (PS)

**COMPLAINT FOR VIOLATIONS OF
CIVIL RIGHTS and COMMON LAW
CLAIMS [42 U.S.C. § 1983]**

JURY TRIAL DEMANDED

I. INTRODUCTION

This is a civil rights action arising out of the withholding of medical treatment the Plaintiff needed and required when he was being held at the Sacramento County Jail ultimately resulting in near-blindness in his right eye, disfigurement, and loss of his ability to work among other negative life-altering consequences.

II. JURISDICTION AND VENUE

1. Jurisdiction over the federal causes of action under Title 42 U.S.C. §1983 is proper in this Court under 28 U.S.C. §1331. Pendant

1 Jurisdiction over the state causes of action is proper under Title 28
2 U.S.C. §1367(a) and Title 28 U.S.C. §1343(a) (3).

3 2. Venue is proper in this Court under 28 U.S.C. §1391(b) as all
4 of the defendants reside, and the acts complained of occurred, within
5 the boundaries of the Eastern District of California.
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7 3. Plaintiff filed a timely administrative claim with the
8 COUNTY OF SACRAMENTO, pursuant to Cal. Gov't Code § 910, on May 18,
9 2018, and due to the tolling of the statute, now brings this claim.
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11 III. PARTIES

12 4. Plaintiff, MIGUEL MARQUEZ VALDIVIA is over the age of
13 eighteen (18) and a resident of Galt, CA, located within Sacramento
14 County.

15 5. Defendant the COUNTY OF SACRAMENTO is a municipal
16 corporation duly organized and existing under the laws of the State
17 of California with the capacity to be sued. The COUNTY OF SACRAMENTO
18 operates the Sacramento Sheriff's Department, which in turn oversees
19 the Sacramento County Jail located at 651 I Street, Sacramento,
20 California. Upon information and belief, all individual parties named
21 herein are employees, or are employed pursuant to contract by the
22 Sacramento Sheriff's Department.
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1 6. GRANT NUGENT was and is the Medical Director of Correctional
2 Health Services at Sacramento County Sheriff's Department.

3 7. GARY LEEDS is a a doctor employed by the COUNTY OF
4 SACRAMENTO.

5 8. Plaintiff does not know the true names and/or capacities,
6 whether individual, partners, or corporate, of the Defendants sued
7 herein as DOES 1-10, and for that reason sues said Defendants under
8 fictitious names. Plaintiff will seek leave to amend this Complaint
9 when the true names and capacities of these defendants have been
10 ascertained. Plaintiff is informed and believes and thereon alleges
11 that these Defendants are responsible in whole or in part for the
12 remedies and penalties sought herein.
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15 **IV. ALLEGATIONS**

16 **General Allegations**

17 9. The Fourteenth Amendment's Due Process Clause affords
18 pretrial detainees entitlement to "adequate medical care, and
19 personal safety." Alvarez-Machain v. United States, 107 F.3d 696, 701
20 (9th Cir. 1996).
21

22 10. However, as will be explained further below, the non-action
23 and delay of Defendants in failing to providing Plaintiff the
24 required course of treatment for his condition in a timely manner,
25 their careless dismissal of his reported complaints, and deliberate
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1 indifference to the consequences of their actions were medically and
2 ethically unacceptable under the circumstances.

3 11. All Defendants herein are culpable for the harm visited upon
4 Plaintiff through their personal action or inaction, such conduct
5 being part of a pattern, practice or custom, proliferating and well
6 settled within the Jail of failure to provide reasonable medical care
7 and is as well based upon policy and procedure, and by accepting and
8 promoting an inadequate standard of care in violation of
9 constitutional protections awarded to all citizens, including
10 detainees and inmates, as exhibited by and through the conduct of the
11 officers, medical staff and other personnel at the Jail, both acting
12 in concert and individually.
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15 **Specific Allegations**

16 12. On November 23, 2017, Plaintiff, MARQUEZ, was diagnosed by
17 Dr. Navarez at Delta Eye Medical Group in Stockton, California with
18 Acanthamoeba Keratitis, a rare condition in which amoebae invade the
19 cornea of the eye.
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21 13. On November 26, 2017, Plaintiff was arrested and booked into the
22 Sacramento County Jail (Jail) where he was to remain until January
23 17, 2018.
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14. Following his arrival at the Jail, Plaintiff was seen by Defendant, GARY LEEDS for medical intake at which point he advised the staff that he had a parasite in his eye, was in critical condition and immediately needed to get the compound eye drops and other medication begin treatment in order to preserve his cornea from being destroyed by the amoebae.

15. Despite the urgent nature of Plaintiff's need for treatment and his communication to Jail personnel of such urgency, including GARY LEEDS and other the medical staff, it was not until December 4, 2017 that a medical professional contacted Plaintiff's eye doctor to inquire as to the nature of his condition and the required treatment, and that his pain medication was increased from over-the-counter acetaminophen to hydrocodone-tylenol to ease his suffering despite the hospital which he would be taken to on the following day prescribing morphine due to the almost unbearable level of pain.

16. By that time Plaintiff had already filed two grievances, for both not having seen an ophthalmologist and for not being provided his desperately needed medication to treat the Acanthamoeba Keratitis.

17. Another two days passed before the appropriate medicine was procured to treat Plaintiff's condition, by which time his eye had significantly deteriorated as evidenced by his complaints to

1 Defendants concerning the pain and pressure he was feeling in his
2 eye, along with his concerns about losing his eye and potentially
3 dying if the amoebae reached his brain.

4 18. On that date, December 6, 2017, the third Consultation Case
5 Management Request was filed by staff for Plaintiff to see an
6 ophthalmologist .

8 19. On December 8, 2017, Plaintiff reported to staff that his
9 eye "vomited" and "a lot of fluid came out." Still no significant
10 action was taken concerning Plaintiff's eye.

11 20. Even having finally obtained the proper medication,
12 Plaintiff was unable to properly administer it, as he reported to
13 Defendants on December 13, 2017, he did not have a clock to determine
14 when an hour had passed and to deliver the hourly dose prescribed or
15 have any assistance, or support from any Jail staff whatsoever.

17 21. Overuse would result in the medication being used up too
18 quickly, and there occurred periods of time when a refill was not
19 forthcoming for some time, missing more doses.

21 22. By January 9, 2018, even though a consultation with a
22 ophthalmologist was requested and long overdue, none would be quickly
23 forthcoming, with a note in chart indicating "reviewed with medical
24 director¹ who concurs, current 2 eye drops are only meds indicated,"

26 ¹ Medical Director is Defendant, GRANT NUGENT, M.D.

1 despite the obvious and extreme condition Plaintiff's eye was now in,
2 and with total and blatant disregard for the fact that the eye was
3 getting worse, not better.

4 23. Finally, on January 11, 2018, Plaintiff was taken to see Dr.
5 Jeffrey Ing at Delta Eye Medical Group in Stockton; Dr. Ing noted and
6 explained to me that because of the lack of treatment by the Jail,
7 Plaintiff's eye was severely damaged and there was no ability to save
8 his eye sight, now Dr. Ing was merely trying to save my eye.
9 Plaintiff returned to Dr. Ing, while still being held at the Jail, on
10 January 15, 2018 and advised he was still in very real danger of
11 losing the eye.
12

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14 24. Plaintiff was released from confinement on January 17, 2018.

15 25. On March 13, 2018 Plaintiff underwent his first corneal
16 transplant, with the second occurring on December 7, 2018.

17 25. The lack of effective relief from the physical pain
18 Plaintiff was forced to endure, the emotional disturbance inflicted
19 upon him as he wondered if he would lose his eye, or if he would die,
20 or both, left Plaintiff inexorably traumatized, suffering from PTSD,
21 bouts of total memory loss, along with more extreme mental symptoms
22 he suffered, and will continue to suffer as he tries to heal,
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1 emotionally at least, through the work of the mental health he now
2 must see regularly, as he will never regain the sight or prior
3 cosmetic condition of his eye prior to his arrest.

4 26. Plaintiff will never fully recover and his injuries are
5 permanent.
6

7 **V. COUNTS**

8 **FIRST CAUSE OF ACTION**

9 **42 U.S.C. § 1983**

10 **Violation of the Fourteenth Amendment to the Constitution:
11 Failure to Provide Appropriate Medical Care
12 Against Defendant, Sacramento County**

13 27. Plaintiff hereby incorporates by reference the above
14 paragraphs, as though set forth fully herein.

15 28. Defendant, Sacramento County, acting under color of
16 law, has maintained and operated pursuant to, certain policies
17 and procedures, and demonstrated a pattern, practice or custom,
18 proliferating and well settled within the Jail, of deliberate
19 indifference to, and inaction related to providing adequate
20 medical care to the population of the Jail.

21 29. As a direct result of the existence, promotion and/or
22 adherence of the aforesaid policy, practice, or custom etc.,
23 Plaintiff was denied access to his constitutional right to
24 proper medical care, despite a showing of serious medical need.
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1 30. Defendants knew that the aforesaid policy, practice, or
2 custom etc., caused and resulted in grievous injury to its
3 population, as demonstrated by the significant amount of other
4 claims against the Jail for similar deprivations and conduct.
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6 **SECOND CAUSE OF ACTION**

7 **2 U.S.C. § 1983**

8 **Violation of the Fourteenth Amendment to the Constitution:**

9 **Failure to Provide Appropriate Medical Care**

10 **Against Defendants GRANT NUGENT, GARY LEEDS and DOES 1-10**

11 31. Plaintiff hereby incorporates by reference the above
12 paragraphs, as though set forth fully herein.

13 32. Each of the times Defendants, GRANT NUGENT and GARY
14 LEEDS, acting under color of law, met with, administered, failed
15 to administer or approved the provided medical care to
16 Plaintiff, such actions, inactions and/or decisions were made
17 with full intent, and awareness of the dire medical consequences
18 that could have, and did result from such deliberate
19 indifference to the suffering and seriousness of Plaintiff's
20 condition.

21 33. A reasonable medical professional would have taken measures
22 to reduce the risk of harm and permanent injury to Plaintiff's
23 eye.
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1 34. Defendant failed to *inter alia*, take measures to timely
2 assess Plaintiff's condition by reaching out to his outside
3 treating physician sooner, by accelerating Plaintiff's access to
4 treatment, and by seeing to the proper application of the
5 treatment.
6

7 35. As a direct result of the conduct of Defendants, GRANT
8 NUGENT and GARY LEEDS, Plaintiff suffered and continues to
9 suffer as described.

10 **THIRD CAUSE OF ACTION**
11 **Intentional Infliction of Physical and Emotional Distress**
12 **Against Defendants GRANT NUGENT, GARY LEEDS, and DOES 1-10**

13 36. Plaintiff hereby incorporates by reference the above
14 paragraphs, as though set forth fully herein.

15 37. Defendants, GRANT NUGENT and GARY LEEDS conduct as
16 alleged herein is extreme and outrageous and is beyond the
17 bounds of that tolerated in a decent society.

18 38. Defendant engaged in the conduct alleged herein with
19 the intent to cause Plaintiff extreme emotional distress, or at
20 a minimum, with reckless disregard as to whether it would cause
21 extreme emotional distress.
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23 39. As a direct and proximate result of Defendant's
24 conduct, Plaintiff has suffered, and continues to suffer severe
25 emotional distress.
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FOURTH CAUSE OF ACTION

Negligent Infliction of Physical and Emotional Distress
Against Defendants GRANT NUGENT, GARY LEEDS, and DOES 1-10

40. Plaintiff hereby incorporates by reference the above paragraphs, as though set forth fully herein.

Defendants GRANT NUGENT and GARY LEEDS, by way of their doctor-patient relationship, owed Plaintiff a reasonable duty of care.

41. Defendant's failure to *inter alia*, provide adequate medical care to Plaintiff had the foreseeable consequence of causing Plaintiff to suffer severe emotional distress.

42. Such conduct by Defendant breached that duty of care.

43. As a direct and proximate result of Defendant's negligence, Plaintiff has suffered, and continues to suffer severe emotional distress.

FIFTH CAUSE OF ACTION

Individual Medical Malpractice
Against Defendant GRANT NUGENT, GARY LEEDS, and DOES 1-10

44. Plaintiff hereby incorporates by reference the above paragraphs, as though set forth fully herein.

45. Defendants, GRANT NUGENT and GARY LEEDS acted as treating physician to Plaintiff during the time of his incarceration.

1 46. Defendant knew through physical examination and review
2 of records of the seriousness of Plaintiff's condition and
3 urgent need for care to prevent serious injury.

4 47. Defendant failed to take the reasonable and required
5 steps to diagnose and properly treat Plaintiff in contravention
6 of his duty and obligation as Plaintiff's physician.

7 48. As a direct and proximate cause of the foregoing
8 negligent actions and inactions by Defendant Plaintiff was
9 caused to suffer significant harm.
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11 **VI. PRAYER FOR RELIEF**

12 WHEREFORE, Plaintiffs pray for relief as follows:
13

14 A. For general damages in the sum of \$5,000,000 (five
15 million dollars) according to proof resulting from the (a) the
16 physical pain and suffering; (b) severe emotional and mental
17 distress; and and (c) the loss of future earnings and economic
18 damages to permanent physical disability;
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20 B. For special damages according to proof;

21 C. For punitive damages against the appropriate defendants;

22 D. For damages for future lost earnings and lost earning
23 capacity according to proof;

24 E. For other losses in an amount according to proof;

25 F. For costs of suit, (if any);
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1 G. For attorneys' fees and costs pursuant to 42 U.S.C. §
2 1988, 42 U.S.C. §12205, 29 U.S.C. § 794a (b), ADA 42 U.S.C. §
3 12131 (2); and Cal. Civil Code §52 and 52.1; and as otherwise
4 authorized by statute or law (if applicable);

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6 H. For such other relief as the Court deems proper.

7 **VII. Certification and Closing**

8 Under Federal Rule of Civil Procedure 11, by signing below,
9 I certify to the best of my knowledge, information, and belief
10 that this complaint: (1) is not being presented for an improper
11 purpose, such as to harass, cause unnecessary delay, or
12 needlessly increase the cost of litigation; (2) is supported by
13 existing law or by a non-frivolous argument for extending,
14 modifying, or reversing existing law; (3) the factual
15 contentions have evidentiary support or, if specifically so
16 identified, will likely have evidentiary support after a
17 reasonable opportunity for further investigation or discovery;
18 and (4) the complaint otherwise complies with the requirements
19 of Rule 11.
20
21

22 A. For Parties Without an Attorney

23 I agree to provide the Clerk's Office with any changes to
24 my address where case-related papers may be served. I understand
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1 that my failure to keep a current address on file with the
2 Clerk's Office may result in the dismissal of my case.

3 Dated: September 14, 2022

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5 **MIGUEL MARQUEZ VALDIVIA**
6 Plaintiff pro se
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JURY TRIAL DEMAND

A Jury Trial is demanded on behalf of Plaintiff MIGUEL MARQUEZ VALDIVIA.

Dated: September 14, 2022



MIGUEL MARQUEZ VALDIVIA
Plaintiff pro se